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IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

TWENTY-SIXTH LEGISLATIVE DAY
FRIDAY, FEBRUARY 6, 2004

Senate Chamber

President Risch called the Senate to order at 11:15 a.m.

Roll call showed all members present except Senators Little and Williams, absent and formally excused by the Chair; and Senators Bunderson, Cameron, and Stennett, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Robbin Tyrrell, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 5, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Cameron was recorded present at this order of business.

SJR 102

BY EDUCATION COMMITTEE

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 2, ARTICLE IX, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE STATE BOARD OF EDUCATION, TO PROVIDE THAT THE RESPONSIBILITY OF THE STATE BOARD OF EDUCATION SHALL BE LIMITED TO SUPERVISION OF THE PUBLIC SCHOOL SYSTEM AND TO PROVIDE A SEPARATE BOARD OF REGENTS TO

SUPERVISE THE PUBLIC INSTITUTIONS OF POSTSECONDARY EDUCATION IN THE STATE AND PERFORM SUCH OTHER FUNCTIONS AS PRESCRIBED BY LAW; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

SJR 102 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

SCR 121

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE, ADOPTING A STATE EMPLOYEE COMPENSATION POLICY, ADOPTING FUNDING RECOMMENDATIONS, STATING POLICY TOWARD SALARY SAVINGS REGARDING PAY POLICIES FOR STATE EMPLOYEES AND DIRECTING MANAGEMENT OF COMPENSATION AND FUNDING POLICIES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature has by law provided that the Governor and the Division of Human Resources report to the Legislature their recommendations for proposed pay policies, together with the estimated cost thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 12, 2004, and the report of the Division of Human Resources dated October 1, 2003; and

WHEREAS, it is the mission of the Idaho State Government to provide a high level of responsive service in meeting the needs of its citizens.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that:

(1) It is the policy of the state of Idaho to provide a total compensation system that attracts, retains and recognizes state employees for their valuable service. The foundation of this system is to pay competitive job market average salaries and to reward performance with a merit based compensation philosophy.

(2) The Joint Finance-Appropriations Committee is directed to provide funding for the following specific compensation measures:

(a) Funding of \$10,923,900 from the General Fund for benefit cost increases for health insurance, Public Employee Retirement System rate changes, and various other salary based benefits as recommended in the Governor's report;

(b) Funding of \$10,002,100 from the General Fund for 2% salary increases for state employees as recommended in the Governor's report; and

(c) One-time contingency funding of \$5,001,000 in General Funds, for an additional temporary salary increase of 1%. This increase shall be contingent upon General Fund revenues exceeding the fiscal year 2004 revenue projection used by the Joint Finance-Appropriations Committee by a

minimum of \$5,001,000. The Joint Finance-Appropriations Committee shall design a surplus eliminator appropriation to provide this temporary salary increase, should available funds in excess of the revenue projection become available.

(3) For those agencies funded in total or in part from non-General Fund money, the Joint Finance-Appropriations Committee is directed to appropriate in as nearly as possible the same manner as agencies funded by the General Fund.

(4) The Legislature recognizes that no specific funding for salary increases for state agencies and institutions has been provided for the last two fiscal years. As such, state agency directors and institution executives are encouraged to allocate agency salary savings to provide for employee salary needs before other operational budget priorities are considered. One-time salary increases should be given if the salary savings are one-time in nature. Ongoing salary increases may be given if the salary savings are expected to be ongoing in nature and, where applicable, particular emphasis should be placed on those employees in occupational groups with significant market pay lag and turnover rates.

(5) The Division of Human Resources and the Division of Financial Management shall ensure that agency and institution compensation policies are managed consistent with the policies contained herein.

(6) The effective date of implementation of these salary adjustments shall be June 6, 2004.

BE IT FURTHER RESOLVED that appropriations measures to fund nonclassified employees be prepared in as nearly as possible the same manner as for classified employees.

SCR 121 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Stennett was recorded present at this order of business.

February 6, 2004

The JUDICIARY AND RULES Committee reports that **S 1278**, **S 1279**, **S 1280**, **S 1281**, **S 1282**, **S 1283**, and **S 1284** have been correctly printed.

DARRINGTON, Chairman

S 1278 and **S 1279** were referred to the Health and Welfare Committee.

S 1280 and **S 1281** were referred to the Judiciary and Rules Committee.

S 1282 and **S 1283** were referred to the State Affairs Committee.

S 1284 was referred to the Local Government and Taxation Committee.

February 6, 2004

The STATE AFFAIRS Committee reports out **HCR 36** with the recommendation that it do pass.

RICHARDSON, Vice Chairman

HCR 36 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 5, 2004

Mr. President:

I transmit herewith **H 511**, **H 480**, **H 551**, **H 509**, and **H 539** which have passed the House.

JUKER, Chief Clerk

H 511, **H 480**, **H 551**, **H 509**, and **H 539** were filed for first reading.

February 5, 2004

Mr. President:

I return herewith **S 1219** and **S 1231** which have passed the House.

JUKER, Chief Clerk

S 1219 and **S 1231** were referred to the Judiciary and Rules Committee for enrolling.

February 6, 2004

Mr. President:

I return herewith **SCR 118** which has passed the House.

JUKER, Chief Clerk

SCR 118 was referred to the Judiciary and Rules Committee for enrolling.

February 5, 2004

Mr. President:

I return herewith Enrolled **S 1213**, **S 1216**, **S 1217**, and **S 1218** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1213**, **S 1216**, **S 1217**, and **S 1218** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Bunderson was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, all rules of the Senate interfering with the immediate consideration of **HCR 36** were suspended.

The President declared the rules suspended and announced that **HCR 36** was now before the Senate for final consideration. The question being, "Shall the resolution be adopted?"

On motion by Senator Richardson, seconded by Senator Davis, **HCR 36** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President announced the Resources and Environment Committee report relative to the Gubernatorial appointment of Karl Dreher was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Noh, seconded by Senator Stennett, the Gubernatorial appointment of Karl Dreher as Director of the Department of Water Resources was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the State Affairs Committee report relative to the Gubernatorial appointment of Vernon Baker was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Calabretta, seconded by Senator Davis, the Gubernatorial appointment of Vernon Baker as a member of the Idaho Commission on Human Rights was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1285

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO PUBLIC SAFETY AND PROTECTION; AMENDING SECTION 62-304A, IDAHO CODE, TO PROVIDE ADDITIONAL RESPONSIBILITIES CONCERNING PUBLIC SAFETY AND TO RENAME THE RAILROAD GRADE CROSSING PROTECTION FUND; AMENDING SECTION 62-304B, IDAHO CODE, TO RENAME THE

RAILROAD GRADE CROSSING PROTECTION FUND; AMENDING SECTION 62-304C, IDAHO CODE, TO DESIGNATE A PORTION OF THE FUND TO PURPOSES OF PUBLIC SAFETY PROJECTS IDENTIFIED AS "SAFE ROUTES TO SCHOOL"; AND AMENDING SECTION 62-304D, IDAHO CODE, TO RENAME THE RAILROAD GRADE CROSSING PROTECTION FUND.

S 1286

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO THE CRIME OF FLOODING HIGHWAYS; AMENDING SECTION 18-3908, IDAHO CODE, TO PROVIDE THAT A PERSON MAY NOT BE CHARGED UNDER THE PROVISIONS OF FLOODING A HIGHWAY IF THE FLOODING FROM A SPRINKLER OR OTHER WATER CONVEYANCE SYSTEM IS A RESULT OF MECHANICAL FAILURE, WIND OR OTHER CLIMATIC CONDITION, OR OTHER CIRCUMSTANCES OUTSIDE OF THE CONTROL OF THE PERSON, PROVIDED THAT VIOLATIONS SHALL BE RECTIFIED WITHIN TWENTY-FOUR HOURS AFTER WRITTEN NOTIFICATION BY A GOVERNMENTAL AUTHORITY.

S 1287

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-1310, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS AND DUTIES TO HIGHWAY DISTRICT COMMISSIONERS; AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1310A, IDAHO CODE, TO PROVIDE FOR ORDINANCE AUTHORITY TO HIGHWAY DISTRICTS AND TO PROVIDE FOR CONTENTS OF ORDINANCES; AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1310B, IDAHO CODE, TO ALLOW SUMMARIZATION OF ORDINANCES UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 40-1336, IDAHO CODE, TO PROVIDE THAT IN THE CASE OF A HIGHWAY DISTRICT THAT SHARES JURISDICTION OVER THE SECONDARY HIGHWAYS WITHIN A COUNTY, THE COUNTY CLERK SHALL BE THE KEEPER OF THE ORDINANCES PASSED BY THE HIGHWAY DISTRICTS THAT ARE SITUATE WITHIN THE COUNTY.

S 1285, **S 1286**, and **S 1287** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 511, **H 509**, and **H 539**, by State Affairs Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

H 480, by Naccarato, was introduced, read the first time at length, and referred to the Transportation Committee.

H 551, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1237, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

S 1238 and **S 1253**, by State Affairs Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

H 565 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Lodge, Malepeai, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen (Sorensen), Stegner, Stennett, Sweet, Werk. Total - 31.

NAYS--None.

Absent and excused--Andreason, Little, Marley, Williams.
Total - 4.

Total - 35.

Whereupon the President declared **H 565** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Burkett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 11:15 a.m., Monday, February 9, 2004.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary